

## **RULES AND PUBLIC POLICY COMMITTEE**

**DATE:** April 3, 2012

**CALLED TO ORDER:** 5:30 p.m.

**ADJOURNED:** 6:48 p.m.

### **ATTENDANCE**

#### ATTENDING MEMBERS

Brian Mahern, Chairman  
John Barth  
Vernon Brown  
Monroe Gray  
Maggie Lewis  
Robert Lutz  
Angela Mansfield  
Michael McQuillen

#### ABSENT MEMBERS

### **AGENDA**

PROPOSAL NO. 136, 2012 - amends Sec. 616 of the Code with respect to nonsmoking areas

"Do Pass As Amended"

Vote: 6-2

## **RULES AND PUBLIC POLICY COMMITTEE**

The Rules and Public Policy Committee of the City-County Council met on Tuesday, April 3, 2012. Chairman Brian Mahern called the meeting to order at 5:30 p.m. with the following members present: John Barth, Vernon Brown, Monroe Gray, Maggie Lewis, Robert Lutz, Angela Mansfield and Michael McQuillen. Councillor Pamela Hickman was also in attendance.

Chairman Mahern asked committee members to introduce themselves and indicate which portion of the County they represent.

PROPOSAL NO. 136, 2012 - amends Sec. 616 of the Code with respect to nonsmoking areas

Councillor Mansfield said that this proposal is essentially the same that was introduced in January, with a few changes, since the Mayor made it clear with his veto that he wanted children to be exposed to smoke in private clubs. She said that they waited to see what the State was going to do before proceeding. Once the State passed very broad, non-comprehensive legislation, they decided to again introduce a smoking ban proposal that would narrow the exemptions. She said that the proposal that was introduced has a few technical errors in it, and she offered an amendment to clear up those technical issues (Exhibit A). Councillor Mansfield moved, seconded by Councillor Lewis, to "Amend" Proposal No. 136, 2012 as per Exhibit A. The motion carried by a vote of 8-0.

Councillor Gray provided an amendment to exempt off-track betting facilities. He moved, seconded by Councillor Lewis, to "Amend" Proposal No. 136, 2012 as per Exhibit B.

Councillor Mansfield stated that she opposed this amendment last time it was offered and opposes it again. She said that the argument has been stated that the State would pre-empt the city if they did not include this; however, the State has made it clear that is not the case. She said that these facilities essentially operate the same as a bar, and will compete with other bars' business, and she therefore opposes it.

Councillor McQuillen thanked Councillor Gray for bringing this amendment forward again, as it makes the city's legislation similar to what the State recently passed. He added that he is comfortable with what the State did, and therefore supports this amended language.

Councillor Brown asked what the Code is that is cited in this amendment. Councillor Lutz said that it covers off-track betting facilities. Councillor Brown asked if casinos are not included. Councillor Gray said that casinos would be similar and governed differently, as well, if Indianapolis ever has one.

Councillor Lutz said that he will support the amendment, although he does not agree with the proposal to begin with. He said that they are allowing exemptions for off-track betting facilities, hookah bars, and cigar bars, yet are not allowing small neighborhood bars to be run as their owners see fit. He said that if the true reason for this legislation is to protect workers' health, then they are throwing the employees of these exempted facilities under the bus and saying their lives are not as important as the others this proposal is supposedly protecting.

The motion to "Amend" Proposal No. 136, 2012 as per Exhibit B carried by a vote of 6-2, with Councillors Mahern and Mansfield casting the negative votes.

Councillor McQuillen presented committee members with copies of an amendment (Exhibit C) to eliminate the language banning the use of electronic cigarettes, also known as e-cigarettes. He said that he has received many e-mails and calls regarding this language. Other members have testified that science suggests all facts are not quite in yet, and instead of guessing, they should base their assumptions on the testimonies of those people actually using the product. He said that back in January, he asked an individual to demonstrate how e-cigarettes are used, since they are currently legal to use inside public buildings. The e-cigarette emitted a puff of vapor, but he did not notice any odor, and found it to be an interesting demonstration. He said that he has received countless e-mails from people who are using the e-cigarette to decrease their tobacco usage; and from those testimonies, they seem to work better than patches, gum, or prescription drugs. He said that he has heard from some individuals that say there are certain substances used in these e-cigarettes, such as nicotine, but there has not yet been any evidence or indication that the device emits harmful vapors. The nicotine simply affects the user, according to his understanding, and if this device can decrease the number of smokers and save lives, he feels it is important to allow its usage more freely. He moved, seconded by Councillor Lutz, to "Amend" Proposal No. 136, 2012 as per Exhibit C.

Councillor Barth said that he did research this issue himself and found that the U.S. Food and Drug Administration (FDA) has done an analysis and determined that the vapor from e-cigarettes contains known cancer-causing agents. This puts people at risk. He said that he works in the health care arena full time and has spoken to many health care professionals, and to a person, 100% were opposed to exempting the e-cigarettes. These devices do include known carcinogens, and also many unknowns, so they should not take the risk. He said that he also received multiple e-mails, but he researched those communications and found that most of them were identical verbiage put out by the e-cigarette industry, and he feels the Council is being lobbied regarding this issue. He said in a recent advertisement he saw for e-cigarettes, there is no reference to any health effects, but simply the promise that the user can smoke "wherever and whenever they want." He said that he opposes the amendment.

Councillor Hickman concurred with Councillor Barth regarding the similar verbiage in the e-mails she received. She added that she also has experience in the health industry,

and found a study done by those in favor of e-cigarettes. Even those in favor of this device admit in this study that it cannot be considered safe, but that the health risks are less than with real cigarettes. She said she was present in the meeting where the gentleman demonstrated the e-cigarette. The device clearly emitted a vapor. Vapor is water content and travels further than air, once expelled. Sitting in a restaurant with 20 people around blowing vapors, which lands on clothing, food and utensils cannot be any better than a cigarette. She said that using this language will not cause individuals to quit using the device, it will just insure that they do not use it around her. She asked that she be given some liberties as a non-smoker.

Councillor McQuillen stated that Councillor Hickman just expelled vapors as she gave her remarks, and vapors are dispersed into the air daily that contain things that may be unpleasant, but this discussion is about tobacco products.

Councillor Brown said that this language does not ban the sale of e-cigarettes, it just means these individuals will be smoking outside with him, as he smokes his cigar.

Councillor Mansfield said that she will repeat what she responded with after this e-cigarette demonstration. She said that there was clearly a billowing cloud, and this emission would cause problems with enforcement and she still believes them to be a health concern. She opposes the amendment.

Councillor Barth said that the same research the e-cigarette industry points to is justification for leaving them in the ban. He said that their studies admit that they have carcinogens in them.

Councillor Lutz said that some of these comments make sense to him and he appreciates all of them. However, in crowded areas, a person can get germs or bacteria from a person who sneezes. He asked if they are next going to ban lung cancer sufferers or people with colds from all public places because they may sneeze and emit a harmful vapor. He said that this device seems to be aiding in the ultimate goal to get more people to get away from using tobacco, and he thinks they should allow that to continue. He asked if there are members of the public to speak specifically to this amendment, and if public testimony could be accepted on this particular issue. Chair Mahern said that he did not anticipate taking testimony on each individual amendment. Councillor Lutz said that there may be e-cigarette proponents in attendance who want to speak specifically to this. Chair Mahern asked for a show of hands of those wishing to address this particular issue. Seeing several hands, he stated that he will allow testimony on the amendment. Councillor Lutz thanked Chair Mahern for his indulgence.

Joe Wilson, bar owner, said that the committee should be aware of a report recently where an e-cigarette device exploded in a person's face, causing them to suffer some serious burns.

James Champer, independent web marketing consultant, said that it is actually a good point about water vapor carrying farther, because all individuals expel vapor in the air they breathe in and out every day. In the study Councillor Hickman referred to, he would be interested to know if they were referring to chemicals in the liquid within the device itself, and not what was contained in the emitted vapor. He said that there were some carcinogens found in some liquids produced with one device, and they found these to be a manufacturer defect, and what was essentially a bad batch. He said that there have been no studies that show these carcinogens in the actual vapor. He said that there, instead, have been a mix of studies with already FDA approved ingredients that are found in everyday food items. Councillor Hickman said that the study she read from was one that he sent. Mr. Champer said that he did not send out any studies, but perhaps it came from another proponent of e-cigarettes. He said that he has used an e-cigarette for three years, and it has helped him to eliminate a 30+ year tobacco habit of smoking a pack a day. He said that even though the FDA has not approved it, he has been smoke free for a year now because of it. He has received nothing but approval from both his smoking and non-smoking friends because of the switch, and it would be a travesty if the Council eliminates the freedom of use for e-cigarettes.

Richard Brewer, hardware engineer for a software company in Indianapolis, stated that he knows the consumer advocates for a smokefree community sent reams of information regarding e-cigarettes to committee members, but their critique should be obvious as biased. He said that after 35 years of smoking and trying patches, cessation groups, prescription pills, and everything else available, this awesome technology was the only thing that succeeded in him having his last cigarette on November 29, 2010. He said that since using the e-cigarette, he has noticed significant health benefits. His weight and blood pressure are both down, and he does not have a mucous-filled cough or other unhealthy habits anymore. He said that if this device was as harmful as some are claiming it to be, he does not believe his health would have improved so drastically. He said that his wife is a severe asthma sufferer, and before quitting smoking, he would not smoke in the house. Now, his wife allows him to vape around her all the time and she is not bothered by it at all. He pleaded with the committee not to treat e-cigarettes like smoking, as there is a world of difference.

Chuck White, resident, said that he smoked for 16 years, since the age of 15, and no matter what he used to try and quit, he had no success for longer than two months. He said that quitting smoking is a vicious cycle, with more anxiety about quitting leading to more smoking. He said that he has been smokefree for a year now, thanks to the use of e-cigarettes. He said that in addition to all the physical health improvements, his mental health and self-image have improved because he has finally managed to break the cycle. He said that he has nonsmoking friends who allow him to vape in their homes, even though as a smoker, they would not even allow him in their garage. He said that they are amazed by the device and can testify that there is no lingering smell. This amendment unfairly targets e-cigarette users, and vaping is not smoking. The reasoning behind it is based in fear, uncertainty and doubt. There is no substantial research that shows any health effects either on users or bystanders. He added that

there is complication with enforcement, as well, as e-cigarette users can practice stealth vaping, during which they inhale, but do not exhale anything. He added that the enforcement issue Councillor Mansfield referred to is no more complicated than officers enforcing someone walking down the street with alcohol in a plain cup.

Chaz Rogers, bar owner, said that if the real effort behind this proposal is to stop cancer and promote health, the committee surely is aware that every individual has cancerous cells in their system, and emissions from computers and other electronic devices have also been shown to emit unhealthy substances into the air. He said if riding downtown in a horsedrawn carriage, there are certain gases that even the horse pulling the carriage emits that might be considered dangerous. He said that there are dangerous emissions that enter the air even when flushing a toilet. He said that this topic is a waste of government money, when government is already broke, and there are more important things they need to spend their time and money addressing.

Lindsey Grace, SmokeFree Indy, said that a recent study entailed testing of 19 different cartridges used for e-cigarettes, with only one having no nicotine. They all contained addictive substances in varying amounts, with one containing a toxic antifreeze ingredient. She said that it is true that they do not yet know enough about the e-cigarette, but it is suspected of being harmful to humans, and they should err on the side of health. She referred to the instance where an e-cigarette exploded in a man's face and knocked out his teeth and damaged part of his tongue. She asked the committee to oppose the amendment.

Councillor Hickman said that a toilet would not be brought into a restaurant and flushed next to her while she is eating and is not in a public area for this very reason. She said that vapor travels further than the air individuals breathe. She said they are not asking them not to use e-cigarettes, but just not to use them in a restaurant or bar.

The motion to "Amend" Proposal No. 136, 2012 as per Exhibit C failed by a vote of 2-6, with Councillors Barth, Brown, Gray, Lewis, Mahern and Mansfield casting the negative votes.

Chair Mahern called for general public testimony on the full proposal.

Mike Dunn, vice chair of the Libertarian Party, said that Councillor Hickman asking for liberties for herself is ironic, seeing as how this proposal takes away liberties from others. He said that if a person does not want him to smoke around them, then they should not come into his privately owned bar.

Chaz Rogers said that business owners should have the right to run their business as they see fit to make a living for themselves. He said that no one makes an individual who is over 21 come into an establishment, and adults can use their own common sense to make the decision as to whether or not they will enter a smoking establishment. He said that there are plenty of nonsmoking establishments out there for

nonsmokers, but this proposal simply takes away the rights of smokers. He said that nonsmokers are not the only group whose rights should be protected. He asked where it will end. He asked if they will stop vehicles with children in them when an adult is smoking and begin invading their homes to insure people are not exposed to smoke. He said that people should be given the right to choose, and the government is simply getting too big and infringing on the rights of those they govern.

Ed Fry, cardiologist, St. Vincent, said that he is here to advocate on behalf of his patients and other physicians. He said that they are discussing the right of people to enjoy a smokefree environment, and should therefore respect the choices made by a majority of Hoosier who do not smoke. He said that 75% of this community does not smoke and supports a comprehensive smoking ban. Indiana ranks near the top of the country in the number of smokers, yet smokers are still in the minority. The rights of the majority are being infringed upon because of the lack of comprehensive smokefree legislation. He said that it is proven fact that second hand smoke increases the risk of lung cancer, cardiovascular disease and heart attacks. It's shown that the risk of a heart attack drops more than 20% within the first six months of instituting smokefree legislation. He said that revenues are also actually shown to increase when broad-based smoking legislation is enacted, one glaring example being the pub culture of Ireland.

Joe Wilson stated that he has owned 17 different bars in his 51 years, and currently owns one of the 10 oldest bars in Indiana, the Catalina on East Washington Street. He said that 100% of his customers smoke. If this ban is imposed, his customers will go to a surrounding county, or excluded city like Beech Grove, Southport or Lawrence, and he will lose his business. He said that allowing exemptions to make the Mayor happy is unfair, and they should either go all the way or do nothing at all.

Wanda Goodpastor, bar owner, said that the State smoking ban is sufficient. She said that the bar owners should have the right to decide if their establishment should be smoking or nonsmoking. She said that singling out neighborhood bars will devastate small businesses like hers. She said that she is close to Beech Grove, and her customers will go there or to the VFW (Veterans of Foreign Wars) club. She said the Council should stop wasting time on this issue. Committee members and those representing the special smokefree interest groups are getting paid to be here and testify, but private bar owners like herself use their own time and money to continue to show up and express their views, only to be ignored.

Brad Klopfenstein, operator of Claude and Annie's, said that there should not be any exemptions. He said that the off-track betting facility provides the same things that his bar does, and this creates an unequal playing field. He said that he believes they will lose 10% of the 300 smoking facilities within the first six months of passage of this legislation. That is 30 small businesses with approximately 10 employees each. This legislation could potentially put 300 Marion County residents out of work, when the economy is already difficult. He said that not only will those residents no longer have an

income, but the city will lose income tax, as well. He said that he searched on Craigs List and found over 200 job listings for positions in nonsmoking bars, so the argument that employees have no choice about working in a nonsmoking environment does not hold up. He said that he would be willing to work with leadership to operate a job board and match those workers who choose not to work in a smoking environment with nonsmoking establishments. He urged the committee to oppose the proposal.

Carol Ackerman, resident, stated that she is a stage four lung cancer patient, even though she has never been a smoker. She said that she worked for years in a heavy smoking environment, and 20% of new lung cancer patients are nonsmokers. She said that when she was before the Council before to testify, she was in remission, but she is now again going through chemotherapy, in pain and on oxygen. She said that the survival rate for stage four lung cancer is 15% and more die every year from lung cancer than breast, colon and prostate cancer combined. She said that her husband now believes he will have to work until he dies in order to pay off the medical bills. She cannot be a caretaker for her granddaughter, as her daughter had hoped; and sadly, the fact that her mother might outlive her is a real possibility. She said that she cannot say she feels sorry for smokers. Besides the health hazard, they also create great cost to society through the extra money others have to pay in insurance premiums. She asked the committee to do what they can to protect other victims from second hand smoke.

Randy Miller, executive director of Drug Free Marion County (DFMC), said that DFMC supports the position of SmokeFree Indy and feels that smoking is highly addictive and is a public health issue that affects all those around them. He said that second hand smoke is not selective and has a universal impact. He added that some people are stuck in jobs where they do not feel they can change easily or need the security of longevity in a position.

Lindsey Grace, SmokeFree Indy, said that the science is clear and there is overwhelming support from the community. She thanked Councillors Mansfield and Barth for their tireless efforts in this area, and all Councillors for bringing the issue to the forefront. She said that it is not a perfect proposal and they will continue to work toward a full comprehensive and level playing field, but this goes a long way to strengthening the current ordinance.

A young gentleman who wished to remain anonymous said that banning smoking will help the health of the country and they will see more productive things come out of the State. He said that if there are more places opening that do not allow smoking, more people might be tempted to smoke.

Councillor Lutz said that it is no secret regarding his position on this issue. He said that he does not think they should adopt this proposal, and it is a bad move on their part. He said that he is 61 years old, and smoked for 20 years before quitting on February 9, 1979. His mother died from smoking, and he worked in a smoking office as a nonsmoker for many years, so he believes he understands where both sides are



coming from on this issue. He said that he opposes this because it is not a comprehensive ban. He said that it should be made clear that this ban does not apply to excluded cities. He said that he would support a comprehensive smoking ban, and offered an amendment to that effect the last time this issue was brought before the Council, only to be resoundingly defeated. He said that only Chair Mahern supported that proposal. He said that a truly comprehensive ban would provide a level playing field, but this does not provide for that. He said that another question entirely is whether or not the government should interfere in these kind of issues, but the existence of the Federal Bureau of Alcohol, Tobacco and Firearms sort of answers that question. He said that he is not opposed to regulation, but if they are going to do it, they should pass a truly comprehensive ban. He said that he did not offer his amendment this time around because he feels it would be a waste of time. He said that they should trust the instincts of small mom and pop business owners when they say that their business will suffer, as they are the ones who live by that revenue. He said that he has serious concerns with Sec. 988-104, because no one could start a specialty tobacco bar (such as a hookah bar or cigar bar) without being able to show qualifying past revenue. Those existing businesses will then become a tool for bartering and selling. He said that there is an exemption for private homes unless they are used as a licensed daycare, but no provision for an unlicensed household where children are still being cared for during the day for pay. He said that if they do this, they should do this right. He said that some of the reasons given are good reasons, but if it is not a complete ban, they do not make sense. If they want to protect workers, yet exempt certain establishments, then they are not protecting all workers, and therefore saying some lives are more valuable than others.

Councillor Mansfield moved, seconded by Councillor Barth, to send Proposal No. 136, 2012 to the full Council with a "Do Pass As Amended" recommendation.

Councillor Brown said that he smokes cigars, and he fully understands the danger of smoke products. He said that he does not, however, have the right to put others at risk. He said that he did not vote for the smoking ban a few years ago, but out of respect for and on behalf of Ms. Ackerman, who testified this evening, he will support the proposal.

Councillor Lewis said that she does not disagree with a lot of the things Councillor Lutz shared and would like to see a comprehensive ban, as well, but they must be realistic. Unfortunately, there are consequences to elections, and knowing a full comprehensive ban will be vetoed, they have worked to reach a great compromise, and this is the best they can do at this point. If they send anything else up to the Mayor's Office it will not go anywhere, and therefore, she supports the proposal as it is.

Councillor Gray asked if they are sure this proposal will not be vetoed if it passes. Councillor Lewis said that she cannot speak on behalf of the Mayor, but feels this is a great compromise.

Councillor Barth said that he is very passionate about this issue and has pushed hard for it for a lot of reasons. He said that when he ran for office county-wide, he never heard one person say they did not want a comprehensive smoking ban. He said that he works in the health arena, and this is an overall public health issue for the city, as the science is crystal clear. He said that second hand smoke has over 4,000 chemicals, 50 of which are known to cause cancer. He said that he cares about citizens and wants to protect as many workers as he can and feels this is critical. He said that what has not been discussed as much as some other issues is the cost of second hand smoke. The government and individuals pay huge amounts of money in Medicare, Medicaid, uncompensated care, higher premiums, and tax-supported hospitals due to second hand smoke. This proposal will make a weak ban stronger. With regard to the effect on small businesses, many studies have been done, including one by Indiana University, which show that a smoking ban did not adversely affect employment or the hospitality industry. He said that in many instances, revenues and employment actually went up. Councillor Barth added that he has spoken with a spokesperson for the Mayor, who indicated that he did not see any reason that the Mayor would not support this proposal as currently written, and therefore he sees no reason the Mayor would not sign it.

Councillor Lutz said that he has no argument with the public health issues of second hand smoke. However, individuals can legally ride motorcycles without a helmet, eat twinkies when they already have hardening of the arteries, and cultivate bad eating habits, which are all health hazards. The only difference is that these are said not to affect the person next to him. However, he likes to grill outdoors, and the wind blows the charcoal smoke into his neighbor's yard, causing his neighbor to breath carcinogens. He asked if this also should be banned. He said that he has seen many changes in society in his lifetime, and just to say a majority of Marion County wants this does not necessarily make it right. There was a time when a majority of people thought it was okay to sell human beings or when a female was not allowed to sit at a bar. Even thought the majority wanted these things, it did not make them right. He reiterated that he would have supported a total ban, but cannot support this ban that creates an unequal playing field.

Chair Mahern said that it is no secret the Mayor and Council have a difference of opinion on this issue. The sticking point seems to be the issue of children in clubs. While this proposal represents a victory for the Mayor, it represents a loss for children. Without the Mayor's participation and support, they cannot protect children. They can extend this protection to workers, but not for the community's children. He said that he will support the proposal, because it is what is possible today, but asked how long they will have to wait to correct the danger that remains for children. He said that he appreciates Councillor Barth getting some assurances on behalf of the Mayor's Office, since the Mayor did not send anyone to represent his position at this meeting. He said that before they congratulate themselves, however, they need to remember what was left behind: children in private clubs.

Rules and Public Policy Committee

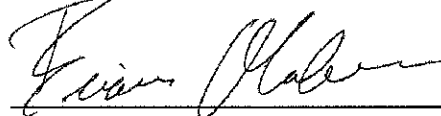
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The motion to send Proposal No. 136, 2012 to the full Council with a "Do Pass As Amended" recommendation carried by a vote of 6-2, with Councillors Lutz and McQuillen casting the negative votes.

There being no further business, and upon motion duly made, the Rules and Public Policy Committee was adjourned at 6:48 p.m.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Brian Mahern", written over a horizontal line.

Brian Mahern, Chairman

BM/ag

**MOTION TO AMEND  
Proposal No. 136, 2012**

Exhibit A

Mr. Chairman:

I move that Proposal No. 136, 2012 be amended in Sec. 616-102 (i) (3); Sec. 616-204 (b); and Chapter 988, making those technical changes highlighted to read as follows:

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**Sec. 616-102. Definitions.**

(h)(i) "Retail Tobacco Store" means a retail store:

- (3) in which the sale of tobacco and tobacco-related products accounts for not less than 66.85% of the store's gross sales.

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**Sec. 616-204. Exceptions.**

(b) None of the areas in the preceding subsection shall be exempt from the provisions of Sections 616-201 through 616-203 ~~202~~ if the smoke from smoking enters any area, through entrances, windows, ventilation systems, or other means, where smoking is otherwise prohibited by this Chapter.

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**CHAPTER 988 – TOBACCO BUSINESSES**

**Sec. 988-101. Purpose**

It is the purpose of this chapter to regulate certain businesses where use of non-cigarette tobacco products is permitted.

**Sec. 988-102. Definitions.**

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this Section:

(a) "Cigar" means any roll of tobacco that has a wrapper or cover consisting only of tobacco, weighing more than four and one-half pounds per 1,000 and is sold without a filter.

(b) "Cigarette" means:

- (1) any roll for smoking containing tobacco wrapped in paper or in any substance other than tobacco leaf or
- (2) any roll for smoking containing tobacco wrapped in any substance, however labeled or named, which because of its appearance, size, the type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, purchased by, or consumed by consumers as a cigarette as defined above.

(c) "Tobacco Specialty Bar" means a business that, as of January 1, 2012:

- (1) is licensed to sell alcoholic beverages pursuant to a permit issued by the Indiana Alcohol and Tobacco Commission for on-premises consumption and in which the service of food is only incidental to the consumption of such beverages and the sale of cigars or Hookah tobacco;
- (2) is engaged in the business of selling cigars or Hookah tobaccos and where at least twenty percent (20%) or more of its total annual gross income over the preceding calendar year was derived from the on-site sale of cigars or Hookah tobaccos;

- (3) that is not physically located within a business otherwise required to be smoke free and
- (4) that does not sell cigarettes or allow smoking of cigarettes on the premises.

**Sec. 988-~~102~~103. Licenses authorized.**

A tobacco business wishing to permit smoking of tobacco products other than cigarettes at its business location may apply to the license administrator for a license as a Tobacco Specialty Bar, by making application under this Chapter.

**Sec. 988-~~103~~104. Application for Tobacco Business License.**

(a) The application for a tobacco business license under this chapter shall be filed by the owner of the business and shall contain the following information which shall be verified by the owner under penalties for perjury:

- (1) An application by a tobacco specialty bar shall include verification that it meets the definition in Sec. 986-102(l), that it permits no one under the age of twenty-one years to enter its business, that it employs no one under the age of twenty-one years, is not physically located within a business that is otherwise required to be smoke free under Chapter 616, and has notified the Marion County Health Department that it intends to allow smoking on the premises.
- (2) Tobacco vending machine sales and/or humidor rental shall not be considered as comprising part of the revenue requirement from Section 988-102(c)(2) above.

(b) The application shall be accompanied by a fee of \$215.

**Sec. 988-~~104~~105. License.**

If the license administrator determines that the applicant qualifies for a tobacco license under this Chapter, the license shall be issued for the remainder of the calendar year upon payment of the annual license fee of \$215 for a tobacco specialty bar. The license shall be renewed annually only upon application by the business demonstrating it still qualifies under this Chapter.

**Sec. 988-~~105~~106. Transferability of Tobacco Business License.**

Nothing in this chapter shall be deemed to restrict or prevent a license issued under this chapter from being sold or transferred, providing that all standards set herein continue to be met and the tobacco specialty bar remains a business in good standing under all applicable laws, including tax, liquor, licensing and other laws applicable to it.

**Sec. 988-~~106~~107. Enforcement and Penalties.**

Any violation of this chapter shall be subject to the enforcement procedures and penalties provided in Sec. 103-3 of this Code.

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Councillor Mansfield

**MOTION TO AMEND  
Proposal No. 136, 2012**

Exhibit B

Mr. Chairman:

I move that Proposal No. 136, 2012 be amended adding a new item (5) under Sec. 616-204 (a) to read as follows:

(5) Any business that on or before April 1, 2012 held a license pursuant to IC 4-31-5.5 to operate a satellite facility in the Consolidated City and County.

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Councillor Gray

COMMITTEE MOTION

Mr. President:

I move to amend Proposal No. 136, 2012, in SECTION 1, by deleting the following language in subsection (k) of Sec. 616-102: "the use of an electronic cigarette (also known as an e-cigarette)."

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Councillor McQuillen

Drafted by Robert G. Elrod